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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/935,417	08/22/2001	Leon V. Rudakov	52200-8006.US01	9486

22918 7590 09/08/2003

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EXAMINER

LAM, ANN Y

ART UNIT PAPER NUMBER

1641

DATE MAILED: 09/08/2003

6

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/935,417

Applicant(s)

RUDAKOV ET AL.

Examiner

Ann Y. Lam

Art Unit

1641

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 August 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 17-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 17-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4 and 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 17 and 18 are rejected under 35 U.S.C. 102(e) as being anticipated by Rudakov et al., 6,451,050.

As to claims 17 and 18, Rudakov et al. disclose an expandable support (11) from having first and second end portions, a porous polymer sleeve (12 or 13) having inner and outer surfaces, and a coating of a cell adhesion peptide (see column 2, lines 33-35) carried on and attached to at least one of the inner and outer surfaces of the polymer sleeve for enhancing endothelial cell growth on the polymer sleeve (see column 4, lines 36-43.)

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rudakov et al., 6,451,050, in view of Brown et al., 6,071,305, and further in view of Bhatnagar, 5,958,428.

Rudakov et al. disclose the invention substantially as claimed (see above), except for the cell-adhesion peptide having the amino acid sequence presented as SEQ ID NO:1. Rudakov et al. teaches an expandable stent for treatment of blood vessels, wherein the stent includes therapeutic drugs such as heparin, column 4, line 33.

Brown et al., like Rudakov et al., teaches use of an expandable stent for treatment of blood vessels, wherein the stent includes therapeutic drugs such as heparin, see column 2, lines 38-52, and column 5, line 17. Brown et al. further teaches that other therapeutic drugs include collagen, see column 5, line 26.

Bhatnagar teaches that collagen functions as a structural protein of tissues and that it is the major fibrous element in blood vessels, see column 1, lines 50-53, and that collagen participates in physiological interactions which include formation of complexes with other macro-molecules such as fibronectin and the modulation of cell proliferation, see column 2, lines 24-31. Bhatnagar further discloses that collagen appears to cause adverse reactions within the body, and thus synthetic peptides are provided that mimic the cell binding domain of collagen, see column 3, lines 21-32. Bhatnagar teaches that the synthetic peptide has the amino acid sequence as disclosed in column 3, lines 42-43, which is the same amino acid sequence as Applicant's claimed SEQ ID NO:1.

Since Brown et al. teaches use of an expandable stent incorporating the same therapeutic drugs as Rudakov, it would have been obvious to provide collagen as a

Art Unit: 1641

therapeutic drug, as suggested by Brown et al., in the Rudakov et al. stent with the polymer sleeve. Furthermore, it would have been obvious to provide, on the Rudakov stent, the synthetic peptide disclosed by Bhatnagar, as an alternative to collagen, as would be desirable to obtain the same therapeutic effect as collagen but without the adverse effects of collagen, as taught by Bhatnagar.

### ***Conclusion***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ann Y. Lam whose telephone number is (703) 306-5560. The examiner can normally be reached on M-Sat 11-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Long V. Le can be reached on (703)305-3399. The fax phone numbers for the organization where this application or proceeding is assigned are (703)308-4242 for regular communications and (703)308-4426 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0196.

  
A.L.

September 7, 2003

  
LONG V. LE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1600

09/07/03